



IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	No. 63529-8-I
Respondent,)	
)	DIVISION ONE
v.)	
)	UNPUBLISHED OPINION
CHEICK MOHAMED DIABATE,)	
)	
Appellant.)	FILED: May 3, 2010

PER CURIAM. Cheick Diabate appeals his conviction for possession of marijuana with intent to deliver. He contends, and the State concedes, that the trial court's sole basis for denying his motion to suppress the marijuana found on his person was invalidated in State v. Winterstein, 167 Wn.2d 620, 220 P.3d 1226 (2009) (rejecting the inevitable discovery doctrine), and therefore the marijuana must be suppressed. The State also concedes that there is no alternate basis to support introduction of the evidence, and that without the marijuana there is insufficient evidence to support the charge. We accept the concession, reverse the conviction, and dismiss the charge.

Reversed and dismissed.

For The Court:

Cox, J.